



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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### IND102478.E

India: Whether a person who previously held Indian citizenship and is now a citizen of another country is eligible to re-acquire Indian citizenship, or is eligible to be registered as an Overseas Citizen of India (OCI); whether a foreign citizen charged with military desertion can re-acquire Indian citizenship or be registered as an OCI and enjoy the rights associated with this status

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#### Re-acquiring Indian citizenship

Under Article 5.1.b of the Citizenship Act, "persons of Indian origin who are ordinarily resident in any country or place outside undivided India" are eligible to obtain citizenship (India 1955). "[O]utside undivided India" refers to citizens of countries other than Pakistan and Bangladesh (India 2003, Art. 3.ii). Article 5.3 states, however, that:

"[n]o person who has renounced, or has been deprived of, his Indian citizenship, or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India ... except by order of the Central Government." (ibid., Art. 5.1)

Article 9 of India's Citizenship Act (Nº 57 of 1955) states that, upon acquiring the citizenship of another country, Indian nationals lose their Indian citizenship (India 1955; see also US Mar. 2001, 94).

Specific information on whether a citizen of a foreign country charged with military desertion is eligible to re-acquire Indian citizenship could not be found among the sources consulted within the time constraints of this Response.

#### Overseas Citizen of India (OCI)

The Embassy of India in Washington explains on its Web site that the Overseas Citizen of India (OCI) program gives certain Persons of Indian Origin (PIOs), who are citizens of foreign countries, a form of dual citizenship (India n.d.d). The program reportedly became operational on 2 December 2005 (ibid.).

According to a brochure published by the Indian Ministry of Home Affairs (MHA), OCI status is available to foreign nationals, including their children and their grandchildren, who were eligible to acquire Indian citizenship at or after India's independence on 26 January 1950 (India n.d.b; India 2003). OCI status is also available to foreign nationals, including their children and their grandchildren, of territories that became part of India after 15 August 1947 (ibid.; ibid. n.d.b). In order for a foreign national who fulfills either of these criteria to be eligible for OCI status, his or her country of citizenship must allow dual citizenship (India n.d.b). Persons who have previously held Pakistani or Bangladeshi citizenship are ineligible to be registered as an OCI (ibid.; ibid. 2003).

The MHA brochure outlines three benefits associated with OCI status: an OCI is granted a "multiple entry, multi-purpose life long visa for visiting India," is exempt from registering with the local authorities while visiting India, and has equal rights with non-resident Indian citizens (NRIs) to educational, financial and economic participation, but not to the acquisition of agricultural land or plantations (India n.d.b; ibid. n.d.c). OCIs are not given Indian passports, as these are reserved for regular Indian citizens (India n.d.c). OCIs are ineligible to vote in India, to hold public office or to be employed in the Indian public service (ibid.; ibid. n.d.b; ibid. 2003).

Applications from outside India for registration as an OCI should be made to the Indian diplomatic mission in the country where the applicant is a citizen or resident (India 1956). According to the brochure, the Indian diplomatic mission that receives the application for OCI status conducts a preliminary assessment (India n.d.b). If, during this assessment "there is no adverse information available against the applicant," the diplomatic mission registers the applicant as an OCI within 30 days, and then forwards the application to the Indian Ministry of Home Affairs (MHA) for post-verification (ibid.). If, during post-verification the MHA finds "adverse information" against the applicant, the previously granted registration is cancelled (ibid.).

In cases where "adverse information" is found during the preliminary assessment, the diplomatic mission forwards the application to the MHA, which determines whether the applicant's registration as an OCI is rejected or approved (ibid.). The appropriate Indian diplomatic mission then implements the MHA's decision, either by

registering the applicant as an OCI, or by rejecting the application (ibid.). Approval or rejection of an applicant with "adverse information" happens, according to the brochure, within 120 days of the initial application date (ibid.).

India's Citizenship (Amendment) Act, 2003, sets forth the rules governing OCI status (India 2003). Paragraph 7.D of the Act indicates that the government may cancel a person's OCI registration for the following reasons:

(a) the registration as an overseas citizen of India was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or

(c) the overseas citizen of India has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the overseas citizen of India has, within five years after registration under subsection (1) of section 7A has been sentenced to imprisonment for a term of not less than two years; or

(e) it is necessary so to do in the interest of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public. (ibid.)

Specific information on whether a foreign national charged with military desertion is eligible to be registered as an OCI could not be found by the Research Directorate within the time constraints of this response.

According to an information sheet published by the MHA, "a person who is registered as an OCI for 5 years and is residing in India for 1 year out of the above 5 years, is eligible to apply for Indian Citizenship" (India n.d.c; ibid. n.d.d).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

#### References

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#### Additional Sources Consulted

**Oral sources:** The High Commission of India in Ottawa did not provide information to the Research Directorate within the time constraints of this Response.

**Internet sites, including:** Amnesty International (AI); British Broadcasting Corporation (BBC); European Country of Origin Information Network (ecoi.net); Freedom House; *The Hindu*; *Hindustan Times*; Human Rights Watch (HRW); India, Passport Office; The India Abroad Centre for Political Awareness; MultipleCitizenship.com; Office of the United Nations (UN) High Commissioner for Refugees (UNHCR); Reliefweb; *The Tribune*; United Kingdom Home

Office; UN Integrated Regional Information Networks (IRIN); United States (US) Department of State; U.S. Committee for Refugees and Immigrants (USCRI); Welcome-NRI.

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